Court No. 2

In the High Court of Uttaranchal at Nainital.

Appeal From Order No. 90 of 2002.

U.P. State Road Transport Corporation,
Through Regional Manager, Nainital.

...Appellant.

Versus

(1)Smt. Munni devi W/o Late Ashok Kumar
(2)Sonu S/o Late Ashok Kumar,
(3)Chhotu S/o Late Ashok Kumar,
(4)Kumari Gita D/o Late Ashok Kumar,
Through their mother Smt. Munni Devi

....Respondents.

Sri A.N.Sharma, learned counsel for the appellant.
Sri Dharam Veer, learned counsel for respondents.

Dated: 20th Aug.,2004

Hon'ble P.C.Verma, J.
Hon,ble B.S.Verma, J.

This appeal has been preferred by the appellant – Utttar Pradesh State Road Transport Corporation against the award dated 30.1.2002 passed by the Motor accident Claims Tribunal/District Judge, Udham Singh Nagar (hereinafter referred to as the Tribunal) in Motor Accident Claim Case No. 225 of 2000.

Brief facts giving rise to this appeal are that on 27.10.2000 Ashok Kumar-husband of respondent No.1 Munni Devi was coming from Baajpur tri-junction by *horse-taanga and* when he reached near village Maheshpura, Bus No. UBP 4384 belonging to U.P.S.R.T.C., which was coming from the side of Kashipur hit the *horse-Taanga* due to which Ashok Kumar sustained grievous injuries and due to

these injuries he died in the Govt. Hospital, Kashipur on the same day. He was aged 38 years at the time of accident and was employed on the post of driver and was drawing monthly salary of Rs. 3500/-. The claimants filed claim petition for compensation amounting to Rs. 14,28,500/- due to death of deceased Ashok Kumar.

The opposite party contested the case denying the allegation before the Tribunal. The learned Tribunal on the pleadings of the parties, framed the following issues-

(1) Whether the alleged accident occurred on 27.10.2000 at about 5.30 p.m. at Village-Maheshpura on Kashipur-Baajpur Road due to rash and negligent driving of the driver of Bus No. UGP 4384, in which due to injuries Ashok Kuamr died? If so, its effect?

(2) Whether the petitioners are entitled to get any compensation ? If so, to what amount and from which of the opposite party?

The learned Tribunal decided the issues in favour of the claimants and allowed the petition for grant of Rs. 2,77,000/- against the U.P.S.R.T.C. alongwith interest at the rate of 12% per annum from the date of petition till the date of payment.

The appellant- U.P.S.R.T.C. challenged the impugned award only on the ground that the amount of compensation awarded is quite excessive. We have perused the impugned judgment. The Tribunal has given its finding while deciding issue No.1 that the accident occurred due to rash and negligent driving of offending Bus in Which deceased Ashok Kumar sustained injuries and died due to said injuries. We find that there is not illegality or infirmity in the order of learned Tribunal. The Tribunal has rightly calculated the amount of compensation keeping in view the

income and dependency of the deceased. Nothing has been shown to us on behalf of the appellant-U.P.S.R.T.C. to as to warrant any interference with the findings arrived at by the learned Tribunal in the case under appeal. Accordingly, the appeal fails on merit.

The appeal is dismissed. No order as to costs.

(B.S. Verma, J.) (P.C.Verma, J.)

P.Singh